



OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 843

[Docket ID: OPM-2023-0008]

RIN 3206-AO13

Federal Employees' Retirement System; Present Value Conversion Factors for Spouses of Deceased Separated Employees

AGENCY: Office of Personnel Management.

ACTION: Proposed Rule.

SUMMARY: The Office of Personnel Management (OPM) is issuing a proposed rule to revise the table of reduction factors for early commencing dates of survivor annuities for spouses of separated employees who die before the date on which they would be eligible for unreduced deferred annuities. The annuity factor for spouses of deceased employees who die in service when those spouses elect to receive the basic employee death benefit in 36 installments under the Federal Employees' Retirement System (FERS) Act of 1986 remains unchanged. These proposed revisions are necessary to ensure that the tables conform to the economic and demographic assumptions adopted by the Board of Actuaries and published in the Federal Register on April 14, 2023, as required by law.

DATES: Send comments on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments identified by docket number and/or Regulatory Information Number (RIN) and title, by the following method:

- Federal eRulemaking Portal: <https://www.regulations.gov>. Follow the instructions for submitting comments.

All submissions received must include the agency name and docket number or RIN for this document. The general policy for comments and other submissions from members of the

public is to make these submissions available for public viewing at <https://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Karla Yeakle, (202) 606-0299.

SUPPLEMENTARY INFORMATION: On April 14, 2023, OPM published a notice at 88 FR 23108 in the Federal Register to revise the normal cost percentages under the Federal Employees' Retirement System (FERS) Act of 1986, Public Law 99-335, 100 Stat. 514, as amended, based on economic assumptions and demographic factors adopted by the Board of Actuaries of the Civil Service Retirement System. By statute under 5 U.S.C. 8461(i), the revisions to the actuarial assumptions require corresponding changes in factors used to produce actuarially equivalent benefits when required by the FERS Act.

Section 843.309 of title 5, Code of Federal Regulations, regulates the payment of the basic employee death benefit. Under 5 U.S.C. 8442(b), the basic employee death benefit may be paid to a surviving spouse as a lump sum or as an equivalent benefit in 36 installments. In its meeting on May 10, 2022, the Board of Actuaries of the Civil Service Retirement System (the Board) reviewed the long-term economic assumptions and determined that they should remain unchanged; therefore, the factors used to convert the lump sum to 36-installment payments under 5 CFR 843.309(b)(2) will remain unchanged.

Section 843.311 of title 5, Code of Federal Regulations, regulates the benefits for the survivors of separated employees under 5 U.S.C. 8442(c). This section provides a choice of benefits for eligible current and former spouses. If the current or former spouse is the person entitled to the unexpended balance under the order of precedence under 5 U.S.C. 8424, he or she may elect to receive the unexpended balance instead of an annuity. If the separated employee died before having attained the minimum retirement age, the annuity commences on the day the deceased separated employee would have been eligible for an unreduced annuity as specified under this section. If the current or former spouse instead elects to receive

an adjusted annuity earlier, beginning on the day after the death of the separated employee, the annuity is actuarially reduced to compensate for it being paid at an earlier date, and is reduced using the factors in appendix A to subpart C of part 843 to make the annuity actuarially equivalent to the present value of the annuity that the spouse or former spouse otherwise would have received. This reduces the risk of any unfunded liability to the Civil Service Retirement and Disability Fund. These proposed revisions amend appendix A to subpart C of part 843 to conform the factors to the revised actuarial assumptions.

OPM has determined that a 30-day period for comments on this proposed rule is sufficient to allow for meaningful public input. These proposed revisions to Appendix A to Subpart C of Part 843 are necessary under 5 U.S.C. 8461(i). Under section 8461(i) and 5 CFR Part 841, Subpart D, OPM is required to make changes to the factors used to produce actuarially equivalent benefits under the FERS Act whenever the Board of Actuaries established under 5 U.S.C. 8347(f) revises related economic assumptions. In May 2022, the Board of Actuaries made such revisions. Accordingly, OPM must now implement these revisions and is proposing the corresponding changes, which must go into effect the first day of the fiscal year. OPM historically has not received comments on previous iterations of this rulemaking.

Expected Impact of this Rule

OPM is issuing this proposed rule to revise the table of reduction factors for early commencing dates of survivor annuities for spouses of separated employees who die before the date on which they would be eligible for unreduced deferred annuities. The factors that are currently in effect can be found in appendix A to subpart C of part 843.

Of all the applications for survivor annuity death benefits OPM receives annually, OPM expects this rule to impact approximately one percent of those survivor annuity death applications it receives that is based on the death of a separated employee. Of the changes this rule implements, the most significant change is to conform the factors to the revised actuarial assumptions when the current or former spouse elects to receive an adjusted annuity

beginning on the day after the death of the separated employee, the annuity is reduced using the factors in appendix A to subpart C of part 843 to make the annuity actuarially equivalent to the present value of the annuity that the spouse or former spouse otherwise would have received. When OPM updates the FERS normal cost, the FERS law at 5 U.S.C. 8461(i) requires that OPM make corresponding changes to the factors used to produce actuarially equivalent benefits under FERS. Specifically, this rule is needed to revise the present value conversion factors for certain benefits payable under FERS to current and former spouses of deceased separated employees. This rule allows certain survivors to make choices about what benefits they want to receive and, in some instances, when they want the benefits to begin. Considering the small number of survivor annuities affected, OPM does not anticipate this rule will substantially impact local economies or have a large impact in local labor markets. However, OPM is requesting comment in this rule regarding the impact.

Regulatory Review

OPM has examined the impact of this rule as required by Executive Order 12866 and Executive Order 13563, which directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public, health, and safety effects, distributive impacts, and equity). This rule was not designated as a “significant regulatory action,” under Executive Order 12866 and, therefore, was not reviewed by the Office of Management and Budget (OMB).

Regulatory Flexibility Act

OPM certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Federalism

We have examined this rule in accordance with Executive Order 13132, Federalism, and have determined that this rule will not have any negative impact on the rights, roles and responsibilities of State, local, or tribal Governments.

Civil Justice Reform

This regulation meets the applicable standard set forth in Executive Order 12988.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any year and it will not significantly or uniquely affect small Governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Paperwork Reduction Act

Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.) (PRA), unless that collection of information displays a currently valid OMB Control Number.

This rule involves an OMB approved collection of information subject to the PRA titled “Application for Death Benefits (FERS)/Documentation and Elections in Support of Application for Death Benefits when Deceased was an Employee at the Time of Death (FERS),” OMB Control Number 3206-0172. The public reporting burden for this collection is estimated to average 60 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The total burden hour estimate for this form is 16,751 hours. The systems of record notice for this collection is: OPM SORN CENTRAL-1-Civil Service Retirement and Insurance Records.

List of Subjects in 5 CFR Part 843

Air traffic controllers, Disability benefits, Firefighters, Government employees, Law enforcement officers, Pensions, Retirement.

Office of Personnel Management.

Kayyonne Marston,

Federal Register Liaison.

For the reasons stated in the preamble, the Office of Personnel Management proposes to amend 5 CFR part 843 as follows:

PART 843—FEDERAL EMPLOYEES RETIREMENT SYSTEM—DEATH BENEFITS AND EMPLOYEE REFUNDS

1. The authority citation for part 843 continues to read as follows:

Authority: 5 U.S.C. 8461; 843.205, 843.208, and 843.209 also issued under 5 U.S.C. 8424; 843.309 also issued under 5 U.S.C. 8442; 843.406 also issued under 5 U.S.C. 8441.

Subpart C—Current and Former Spouse Benefits

2. Revise appendix A to subpart C of part 843 to read as follows:

Appendix A to Subpart C of Part 843—Present Value Conversion Factors for Earlier Commencing Date of Annuities of Current and Former Spouses of Deceased Separated Employees

With at least 10 but less than 20 years of creditable service—

Age of separated employee at birthday before death	Multiplier
26.....	.1081
27.....	.1146

28.....	.1215
29.....	.1289
30.....	.1367
31.....	.1451
32.....	.1539
33.....	.1634
34.....	.1735
35.....	.1840
36.....	.1954
37.....	.2071
38.....	.2196
39.....	.2326
40.....	.2460
41.....	.2611
42.....	.2772
43.....	.2939
44.....	.3124
45.....	.3314
46.....	.3525
47.....	.3743
48.....	.3978
49.....	.4230
50.....	.4500
51.....	.4792
52.....	.5106
53.....	.5442

54.....	.5804
55.....	.6190
56.....	.6614
57.....	.7070
58.....	.7565
59.....	.8100
60.....	.8680
61.....	.9312

With at least 20, but less than 30 years of creditable service—

Age of separated employee at birthday before death	Multiplier
36.....	.2248
37.....	.2383
38.....	.2528
39.....	.2679
40.....	.2835
41.....	.3009
42.....	.3195
43.....	.3389
44.....	.3601
45.....	.3821
46.....	.4064
47.....	.4316
48.....	.4587
49.....	.4878
50.....	.5190

51.....	.5526
52.....	.5887
53.....	.6274
54.....	.6691
55.....	.7137
56.....	.7623
57.....	.8149
58.....	.8717
59.....	.9332

With at least 30 years of creditable service—

Age of separated employee at birthday before death	Multiplier by separated employee's year of birth	
	After 1966	From 1950 through 1966
464989	.5332
475300	.5665
485634	.6021
495991	.6403
506374	.6813
516786	.7253
527228	.7725
537703	.8232
548213	.8778
558763	.9365

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